

E&O Risk Management Newsletter

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PERSONAL LINES: More Errors & Omissions Exposure than You Think

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Most Agents' Errors & Omissions (E&O) carriers report that Commercial Lines generates the majority of E&O claims. However, a significant number of E&O claims arise from the sale and service of Personal Lines. **For agents selling Personal Lines, understanding the risks and knowing how to minimize the potential of an E&O claim are vital.**

Simply turn on the news to see the devastation caused by Mother Nature and then consider how many Personal Lines customers *are or are not covered* for the losses they are facing. On average, when an E&O claim involving Personal Lines occurs, the severity – the size of the claim – is much less than the Commercial Lines counterpart. Yet depending on the agency's clientele, E&O claims involving Personal Lines can easily reach the \$1 million-plus level. In Personal Lines, three lines of business typically generate the bulk of the activity: Homeowners, Auto, and Umbrella.

Homeowners

With Homeowners, one of the more significant issues involves valuation. While many agencies use a replacement cost estimator, these are not perfect. In many cases, the quality of the output is directly attributable to the quality of the input. Be cautious in securing the various inputs and verify the accuracy of the data. For example, some websites may not include an indicator that an addition has been put on the house. It is best to ask the customer additional questions to determine if changes occurred. When quoting a new business account, don't presume that the limit shown on the current policy is accurate or up to date.

Other issues involving Homeowners include:

- **various limitations contained within the policy.** Make the customer aware of these limitations in writing;
- **the carrier's underwriting guidelines.** Carriers have been known to sue agents when the agency bound the carrier on a risk prohibited by the underwriting guidelines; and
- **Vacancy and Ordinance or Law coverages.** Agents would be wise to educate customers on these two key coverage matters.

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Personal Auto

A central issue with Personal Auto is limits. Customers do not expect to get into a crash –and many do not fully comprehend what can happen when their 3,000-lb. vehicle hits something or someone. This is an area where \$1 million losses can occur and, when the customer realizes he or she does not have sufficient coverage, there is greater potential for E&O litigation. In all situations, provide the customer with limit options from which to choose.

Surprisingly, there have been E&O claims where the customer moved to a new location, but never notified the agency. When the vehicle was stolen, the carrier denied the claim, citing it was unaware of the vehicle's new garaging location. In addition, a child taking a car to college raises significant insurance issues. Once again, agents would be wise to educate customers on these matters.

Uninsured/Underinsured Motorist (UM/UIM) also continues to be an issue. When quoting Personal Auto, quote UM/UIM limits equal to the Bodily Injury (BI) and Property Damage (PD) limits.

Personal Umbrella

How many of your Personal Lines customers have an Umbrella? **An E&O claim can develop when a customer is involved in a significant claim – involving their Homeowners, Personal Auto, Watercraft, or other liability exposure – and faces a significant uninsured exposure because they allege your error in not providing this coverage.** Find a way to offer an Umbrella Policy to all customers that have the necessary underlying limits. Most agency management systems can identify customers that don't carry an Umbrella.

There are also instances where the customer has an Umbrella but, for some reason, the underlying limits are not at the proper level. Every year when the Umbrella Policy renews, you must verify that policies covered by the Umbrella have the necessary underlying limits. When they don't and a gap occurs, agents frequently face E&O litigation.

Documenting Discussions

Agents can benefit greatly by educating their customers on coverages the customers have and coverages and limits they should have to avoid uninsured gaps. **Each file should reflect discussions with clients and, where necessary and appropriate, the agency should send the client a written communication memorializing any discussions.** Without this documentation, courts have taken the position, "if it's not in the file, it didn't happen."

E&O TIP: Best Practices When Handling Applications

An insurance application is one of the most important documents that an agency will handle. This document can play a key role should a problem develop with a client's coverage. Agencies should have procedures in place to ensure uniform handling of applications, which can help avoid action against the agency when a problem arises.

What can you do?

- **Request the application from the client with sufficient time** to evaluate and market the risk.
- **Do not delay submitting the application to the carrier(s).**

- **Use the application the carrier will require for binding, whenever possible.** While ACORD forms or other applications may be used for an estimate, this leaves the possibility that terms and conditions may change once the binding application is received.
- **Get a currently completed application first if you are remarketing a renewal.** Using a previous year's application can lead to problems as the data may not be an accurate reflection of the current state of the risk.
- **Have the client complete the application, when possible,** to avoid accusations that the information on the application is not what was provided to the agent. If you must complete the application for the client:
 - o Ask all questions exactly as stated on the application.
 - o Have the client review the application prior to any coverage being bound and have them confirm, in writing, that the information is accurate.
 - o Address any incomplete information. Never guess or use default answers for common questions.
- **Always secure a signature from the client on the application.** When requesting the signature, instruct the client to review the application for accuracy prior to signing. *Never sign an application on behalf of the client.*

RISK MANAGEMENT RESOURCES: How to Break Up with a Client

On occasion, an agent may need to terminate their relationship with a client. Maybe the client has a bad payment record or is difficult to work with. Yet whatever the reason, there are things to consider when ending the relationship. The Utica National companies offer guidance on how to handle this situation, along with a sample letter that can be provided to clients.

This information is available on our Risk Management website under *Agency Tools*. To access the website, you must sign in to our [Customer Care Center](#) and then click *Risk Management*.

Signing up for Customer Care is easy! Find out how: [How to Sign Up for Our Online Customer Care Center](#)

Ready to Help

Are you looking for risk management guidance on a particular topic? Reach out to Tabitha DeGirolano of our E&O team for help at tabitha.degirolano@uticanational.com.

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